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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/688,811	10/17/2003	Antoine Trubiano	5489-101US-1	9691
40023	7590	04/18/2005	EXAMINER	
DAVID M. CARTER CARTER SCHNEDLER & MONTEITH, P.A. 56 CENTRAL AVENUE, SUITE 101 P.O. BOX 2985 ASHVILLE, NC 28802			FISCHMANN, BRYAN R	
			ART UNIT	PAPER NUMBER
			3618	
DATE MAILED: 04/18/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/688,811

Applicant(s)

TRUBIANO, ANTOINE

Examiner

Bryan Fischmann

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 10-17-03.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Specification***

1. The abstract of the disclosure is objected to because of the following:

A) The abstract is too long. Per 37 CFR 1.72 and Section 608.01(b) of the MPEP, the abstract shall not exceed 150 words in length. The Instant Abstract is approximately 250 words long.

2. The disclosure is objected to because of the following:

A) The following recited phrases are unclear, awkwardly worded, and/or grammatically incorrect:

1) Paragraph 0007 recites "...an article carrying basked supported on casters by a user person...".

This recited phrase is objected to, as the recited phrase implies that the "user person" supports the casters and article carrying basket.

2) The latter part of paragraph 0031 recites "...channel members 51 are of U-shaped cross-section also and define longitudinal slots 53 with the slot openings facing inwardly to one another".

It is not clear to the Examiner what are the "slot openings facing inwardly to one another" as set forth in the above recitation.

3) Paragraph 0034 recites "It is pointed out that the reinforced display frame 50 is a narrow reinforced steel frame and which has a width which can integrate same within the thickness of the wire rod construction of the shopping cart walls to which it is secured whereby the frame lies in the plane of the walls of the shopping cart to provide for reinforcement of the walls while at the same time providing a backing

surface behind the promotional sheets. Also, the reinforced display frame lying within the plane of the side walls permits for the shopping cart to be nested with other shopping carts without obstruction or damaging of the outer promotional sheet”

This recitation leaves unclear to the Examiner whether the reinforced frame is located inwardly and attached to the basket wire frame “mesh” 69, as is appeared to be shown on Figure 8, or is located “within” the plane of the side walls of the basket, as set forth in paragraph 0034, as appears to be shown on Figure 12. Note, as best understood, that portions of the wire frame mesh 69, would appear to have to be “cut-out” to achieve the configuration of Figure 12, which is not believed to be set forth in the disclosure.

### ***Drawings***

3. Drawing Figures 8 and 12 are objected to due to the following:

As noted above in the specification objections, Figures 8 and 12 would appear to be inconsistent, as Figure 8 appears to show the reinforced frame 50 is located inwardly and attached to the basket wire frame “mesh” 69, while Figure 12 would appear to show the reinforced frame is located “within” the plane of the side walls of the basket. Note, as best understood, that portions of the wire frame mesh 69, would appear to have to be “cut-out” to achieve the configuration of Figure 12, which is not believed to be set forth in the disclosure.

***Claim Objections***

4. Claims 1-7 are objected to because of the following:

A) Claim 1 recites "...an article carrying basked supported on casters by a user person...".

This recited phrase is objected to, as the recited phrase implies that the "user person" supports the casters and article carrying basket.

Also note that a "user person" is non-statutory subject matter. Therefore, any reference to a "user person" should only be made clearly within functional language.

B) Claim 1 recites "...said channel members having longitudinal slots having a slot opening facing inwardly to one another...".

This recited phrase is objected to as being somewhat unclear, specifically, when read in context, what components are being referred to as "facing inwardly to one another" in the above recited phrase.

C) Claim 1 recites "...a promotional sheet...said promotional sheet or sheets...". This recited phrase is objected to, as it leaves unclear whether Applicant is claiming a single promotional sheet, or a plurality of promotional sheets.

***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-5 are rejected under 35 U.S.C. 112, second paragraph, as failing to set forth the subject matter which applicant regards as his invention.

A) Claim 1 recites "...said reinforced display frame being welded to metal wire rods in said (basket front and/or side) walls...whereby said reinforced display frame lies in the plane of said (basket front and/or side) walls...".

As noted above, as best understood by the Examiner, this recitation is referring to Figure 12, where apparently some of the basket wire mesh (69) would appear to have to be cut-away to allow the display frame to lie in the plane of the basket walls. However, this was not believed to have been disclosed, and would appear to be inconsistent with Figure 8, which appears to show the display frame located "inward" and not in the "plane" of the basket wall. Note also the recitation of "said reinforced display frame being welded to ... said (basket) wall...for re-inforcement of the walls", when read in context, as recited in paragraph 0034 and the latter portion of claim 1 seems to also imply the display frame is located "inboard", as opposed to "within" the plane of the basket wall, since if the basket wire mesh was "cut-out", to provide space for the display frame, it would then not provide "reinforcement", as the basket would be "weakened" from the cut-out portion.

Due to this, it is considered unclear where the display frame is located in a "vertical plane" relative to the "vertical walls" of the shopping cart basket.

B) Claim 1 recites the limitation "said wall" on the fifth to last line of claim 1. There is insufficient antecedent basis for this limitation in the claim.

See also the recitation of "said wall" in the third to last line of claim 1.

Note that since several terms previously introduced in claim 1 contain the term "wall", it is considered unclear which term is being referred to in the above recitation.

***Allowable Subject Matter***

7. Claim 1 would be allowable if rewritten or amended to overcome the claim objection set forth in this Office action.
8. Claims 2-7 would be allowable if rewritten to overcome the claim objection set forth in this Office Action and to include all of the limitations of the base claim and any intervening claims.

***Reasons for Allowance***

9. The following is an Examiner's statement of reasons for allowance of independent claim 1:

Claim 1 recites the limitation (as best understood – due to 112 rejections) of a metal wire rod shopping cart having an article carrying basket, the improvement comprising providing at least one reinforced display frame integrated in a wall of at least one of said front wall and opposed side walls, said reinforced display frame having a U-shaped metal channel defined by opposed parallel side channel members and an integral transverse end channel member disposed in a common plane, said channel members having longitudinal slots, a metal panel sheet secured substantially centrally in said slots, said reinforced display frame being welded to metal wire rods in said wall about said channel members whereby said reinforced display frame lies in the plane of said (basket) wall to provide for non-obstruction when nesting said shopping cart with other like shopping carts and to provide a backing surface behind said promotional sheet or sheets. This limitation, in combination with the other limitations of claim 1, were not found in the prior art.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably

accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

### **Conclusion**

10. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Bryan Fischmann whose telephone number is (703) 306-5955. On, or about 04-06-2005, the Examiner's new phone number is (571)272-6694. The examiner can normally be reached on Monday through Friday from 9:00 to 5:30.

If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Chris Ellis, can be reached on (703) 308-2560. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 3-6-5  
BRYAN FISCHMANN  
PRIMARY EXAMINER